

United States District Court  
for the  
Western District of New York

United States of America

v.

WILLIAM SMITH,

*Defendant*

19-MJ-

654



CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about June 15, 2019, in the county of Monroe, in the Western District of New York, the defendant violated 18 U.S.C. § 922(g), offenses described as follows:

the defendant possessed firearms while being a convicted felon.

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT

☐ Continued on the attached sheet.

*Complainant's signature*

JOSEPH BRIGANTI, Task Force Officer  
Bureau of Alcohol, Tobacco, Firearms and Explosives

*Printed name and title*

Sworn to before me and signed in my presence.

Date: July 17, 2019

*Judge's signature*

City and State: Rochester, New York

Hon. Marian W. Payson, U.S. Magistrate Judge

*Printed name and title*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

- v -

19-MJ- 654

WILLIAM SMITH,

Defendant

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STATE OF NEW YORK    )  
COUNTY OF MONROE    ) SS:  
CITY OF ROCHESTER    )

**AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT**

I, Joseph Briganti, being duly sworn, depose and say:

1. Your affiant is a Police Investigator with the Rochester Police Department and currently assigned as a Task force officer (TFO) with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), assigned to the New York Field Division, Rochester Field Office. As such, I am an "investigative or law enforcement officer" of the United States within the meaning of Section 2510(7) of Title 18, United States Code, that is an officer of the United States who is empowered to conduct investigations of, and to make arrests for, offenses enumerated in Title 21, United States Code, Section 801, et seq. and Title 18, United States Code, Section 2516(1).

2. I have been employed as a Police Investigator since 2011. Prior to being employed as a Police Investigator, I was employed as a Police Officer beginning in 1995 for both the City of Rochester, New York Police Department (RPD) and the

Niagara Falls, New York Police. My duties as a Police Investigator include investigating violations of state and federal firearms laws such as individuals engaged in illegal firearm trafficking, unlawful possession of firearms, the possession of firearms during the commission of drug trafficking crimes, and other crimes of violence.

3. Additionally, I have been assigned to the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), as a designated Task Force Officer. During my tenure with RPD and ATF, I have participated in numerous investigations involving armed individuals who were in violation of federal narcotics laws, including Title 21, United States Code, Section 846, and federal firearms laws including Title 18, United States Code, Sections 922 and 924.

#### **PURPOSE OF AFFIDAVIT**

4. This affidavit is submitted in support of a criminal complaint charging WILLIAM SMITH with a violation of Title 18, United States Code, Section 922 (g)(1) (possession of a firearm by a convicted felon).

5. As more fully described below, the facts in this affidavit are based on a combination of my personal participation in this investigation, review of police reports filed in connection with this investigation, and conversations with other law enforcement officers involved in this investigation. Since this affidavit is being submitted for a limited purpose, I have not included each and every fact that I know concerning this investigation. Rather, I have set forth only those facts that relate to the issue of whether probable cause exists to believe that WILLIAM SMITH (hereinafter "SMITH") committed the above-mentioned offense.

**PROBABLE CAUSE**

6. On June 15, 2019 at approximately 8:00 p.m., RPD officers responded to the intersection of Midland Avenue and Grafton Street, in the City of Rochester, for a report of multiple gunshots. Upon arrival, officers noticed several holes that appeared to be gunshot strikes in the exterior of 72 Midland Avenue, which is located at the intersection. Officers observed the rear door of 72 Midland Avenue was ajar and unlocked, and they entered the residence to attempt to determine if anyone was injured inside. Once inside the location, RPD Sergeant Justin Collins observed blood inside the residence. As officers continued their protective search through the residence, they encountered a strong smell of apparent gunpowder throughout the location along with several spent shell casings. Officers did not locate any individuals inside 72 Midland Avenue. Officers then located several spent shell casings in the driveway and around the exterior of 72 Midland Avenue.

7. At approximately 8:11 p.m., RPD officers were dispatched to Rochester General Hospital for a report of a male gunshot victim that was dropped off at the hospital in a 2019 Kia Optima, color gray. Officers identified the shooting victim, a William Smith D.O.B. 04/30/1982. Investigators spoke to Valerie Smith-Williams, SMITH'S wife, who stated SMITH lives at 72 Midland Avenue, and that he was staying there because they were having marital problems. She stated they used to run a day care out of the home but had recently stopped doing that. Additionally, New York State Parole records indicate that SMITH was staying at 72 Midland Avenue.

8. RPD Investigators reviewed the surveillance footage from a house next to 72 Midland Avenue that captured some of the incident. The footage showed three

males walk into the rear door of 72 Midland Avenue. It should be noted that none of the males in the surveillance footage were seen carrying long guns as they approached the house. Approximately one minute later, one of the males exits the rear door and runs down the driveway, carrying a handgun in his hand as he runs from the location. Investigators then observe two different males exit 72 Midland Avenue and enter a silver/gray Kia parked in the driveway of the residence. One of the males is observed carrying a handgun in his hand as he enters the silver/gray Kia and the other male is identified as the victim, William Smith.

9. RPD Officers maintained constant presence at 72 Midland Avenue in order to ensure no persons entered the location while RPD Investigator Mark Rohr prepared a search warrant for 72 Midland Avenue Rochester New York. The search warrant was reviewed and signed by the Honorable Judge Douglas Randall, Monroe County Court Judge. RPD Investigator Rohr, along with other members of the RPD, searched 72 Midland Avenue. Officers located three firearms in the basement of the house. Two of the firearms were located next to the air handler, resting against a child's stroller and partially covered by a blanket: one Savage Arms Corp., Rifle, serial number F080817, with an attached scope; and one Traditions Inc. US, serial number 14-13-028044-14, rifle. The third firearm – a Winchester US/JA, Model 37 – was found in the basement underneath storage shelves placed south of the stairwell. Officers determined that the Traditions Inc. US, serial number 14-13-028044-14, rifle was reported stolen on May 13, 2019 from a residence in North Rose New York. Also in the basement, officers found documents addressed to WILLIAM SMITH along with several rounds of ammunition.

**SMITH'S PRIOR FELONY CONVICTIONS**

10. In connection with this investigation, your affiant has reviewed SMITH'S criminal history, which reflects that SMITH is a convicted felon, with the following felony convictions:

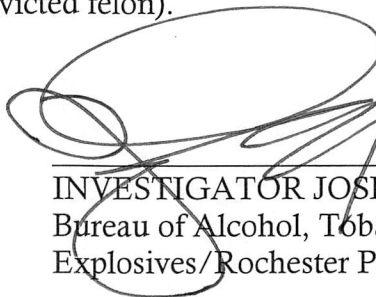
- a. On or about September 7, 2007, SMITH was convicted upon plea of guilty in Monroe County Court of Criminal Possession of a Controlled Substance in the Fifth Degree, a class D Felony, and sentenced to one year in the New York State Department of Corrections.
- b. On March 17, 2011, SMITH was convicted upon a plea of guilty in Monroe County Court of Criminal Possession of a Controlled Substance in the Third Degree, a class B Felony, and Criminal Possession of a Weapon in the Second Degree, a class C Felony, and sentenced to seven years in the New York State Department of Corrections and five years post release supervision. He is currently on parole for this offense.

**INTERSTATE NEXUS**

11. In connection with this investigation, ATF Special Agent Ryan Szwejbka, an expert who has testified in federal court regarding the origin of manufacture for firearms and ammunition, was provided a description of the firearms. Based on that description, he determined that the Traditions Inc. US rifle, the Winchester US/JA, Model 37, and the Savage Arms Corp., Rifle were not manufactured in the State of New York. Therefore, they affected interstate commerce.

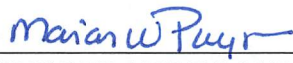
CONCLUSION

12. Based on the above information, your affiant submits that probable cause exists to believe that SMITH violated Title 18, United States Code, Section 922 (g)(1) (possession of a firearm by a convicted felon).

A handwritten signature in black ink, appearing to read 'Joseph Briganti', is written over a horizontal line.

INVESTIGATOR JOSEPH BRIGANTI  
Bureau of Alcohol, Tobacco, Firearms and  
Explosives/Rochester Police Department

Subscribed and sworn to before me  
this 17 day of July 2019.

  
HONORABLE MARIAN W. PAYSON  
United States Magistrate Judge